

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21023

Application 29907 of **Donald R. and Maureen K. Hahn**
 3101 Highway 128
 Philo, CA 95466

filed on **February 14, 1991**, has been approved by the State Water Resources Control Board (SWRCB) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source of water

Source

Tributary to

Unnamed Stream

Floodgate Creek

thence Navarro River

thence Pacific Ocean

within the **County of Mendocino**

2. Location of point of diversion

By California Coordinate System in Zone 2	40-acre subdivision of public land survey or projection thereof	Section	Township	Range	Base and Meridian
North 533,750 feet and East 1,570,300 feet	NW ¼ of NE ¼	33	15 N	15 W	MD

3. Purpose of use	4. Place of use	Section	Township	Range	Base and Meridian	Acres
Frost Protection	NW ¼ of NE ¼	33	15 N	15 W	MD	16
Heat Control	NW ¼ of NE ¼	33	15 N	15 W	MD	16
Irrigation	NW ¼ of NE ¼	33	15N	15W	MD	16

The place of use is shown on map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 6 acre-feet per annum to be collected from December 15 of each year to March 31 of the succeeding year.

(0000005C)

6. This permit does not authorize collection of water to storage outside of the specified season to offset evaporation and seepage losses or for any other purpose.

(0000005I)

7. The maximum rate of diversion to offstream storage shall not exceed 2 cubic feet per second.

(0000005J)

8. Complete application of the water to the authorized use shall be made by December 31, 2009.

(00000009)

9. The SWRCB reserves jurisdiction to impose conditions to conform this permit to SWRCB policy on use of water for frost protection. Action by the SWRCB will be taken only after notice to interested parties and opportunity for hearing.

(00000020)

10. Permittee shall install and maintain devices satisfactory to the SWRCB to measure the rate and quantity of water diverted into the reservoir from Unnamed Stream, and water released from or flowing out of the reservoir.

(0060046)

11. For the protection of fish and wildlife, permittee shall bypass a minimum of 0.12 cubic feet per second from December 15 through March 31. The total streamflow shall be bypassed whenever it is less than the designated amount. The permittee shall submit a compliance plan, satisfactory to the Chief of the Division of Water Rights, which describes how the bypass flows required by the conditions of this permit will be measured and maintained.

(0140060)

12. Permittee shall install a device, satisfactory to the SWRCB, which is capable of measuring the bypass flows required by the conditions of this permit. Said measuring device shall be properly maintained.

(0060062)

13. In accordance with section 1601, 1603, and/or section 6100 of the Fish and Game Code, no work shall be started on the diversion works and no water shall be diverted under this permit until permittee has entered into a stream or lake alteration agreement with the California Department of Fish and Game and/or the Department has determined that measures to protect fishlife have been incorporated into the plans for construction of such diversion works. Construction, operation, and maintenance costs of any required facility are the responsibility of the permittee.

(0000063)

14. Permittee shall not use more water under basis of riparian right on the place of use authorized by this permit than permittee likely would have used absent the appropriation authorized by this permit. Consistent with this term, permittee may not divert any water for use on the place of use authorized by this permit under basis of riparian right. With the approval of the Chief of the Division of Water Rights, this limitation may be modified, and permittee may use water under basis of riparian right on the authorized place of use, provided that permittee submits reliable evidence to the Chief of the Division of Water Rights quantifying the amount of water that permittee likely would have used under basis of riparian right absent the appropriation authorized by this permit. The Chief of the Division of Water Rights is hereby authorized to approve or reject any proposal by permittee to use water under basis of riparian right on the place of use authorized by this permit.

(999 0999)

15. No diversion of water is authorized under this permit until the permittee has submitted a compliance plan that is acceptable to the Chief of the Division of Water Rights that describes the measures that will be taken to demonstrate compliance with the terms specified in this permit.

The plan shall include a time schedule for implementation of the elements included in the plan. Permittee is not authorized to divert water under this permit until all measures are in place and are operating in accordance with the approved plan.

(049 0999)

16. No diversion of water is authorized under this permit until the permittee has submitted a land management plan that is acceptable to the Chief of the Division of Water Rights. The plan shall describe the specific measures to be taken to minimize erosion and sedimentation, protect the riparian corridor, stabilize streambanks and preserve large woody debris. The permittee shall refer to measures described in the Navarro Watershed Restoration Plan dated June 1998. The plan shall include a time schedule for implementation of the elements included in the plan.

(049 0999)

17. Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock outcrops and boulders with mortor cups; and locally darkened midden soils containing some of the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend appropriate mitigation. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.

(038 0999)

ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:

(A) Permittee shall maintain records of the amount of water diverted and used to enable SWRCB to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.

(B) The amount authorized for appropriation may be reduced in the license if investigation warrants.

(C) Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.

(D) Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.

(E) Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the

continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source.

Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(F) The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(G) This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain an incidental take permit prior to

diversion or use. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

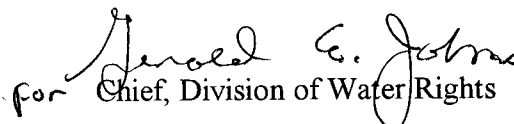
Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: FEB 29 2000

STATE WATER RESOURCES CONTROL BOARD

for 
Chief, Division of Water Rights